
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

MIGUEL DAVID GEDO,

Plaintiff,

vs.

PLEASANT GROVE CITY et al.,

Defendants.

REPORT AND RECOMMENDATION

Judge Paul G. Cassell

Magistrate Paul M. Warner

Case No. 2:05CV363

This matter was referred to Magistrate Judge Paul M. Warner by District Judge Paul G. Cassell pursuant to 28 U.S.C. § 636(b)(1)(B). Before the court is Plaintiff Miguel David Gedo's ("Plaintiff") Motion for Summary Judgment. The court has carefully reviewed the memoranda submitted by the parties. Pursuant to Utah local rule 7-1(f), the court elects to determine the motion on the basis of the written memoranda and finds that oral argument would not be helpful or necessary. *See* DUCivR 7-1(f).

Plaintiff filed a complaint against Defendants Pleasant Grove City, Pleasant Grove City Police Department, Pleasant Grove City Attorney, Pleasant Grove Planning and Zoning, Pleasant Grove Mayor, and Pleasant Grove Animal Control ("Defendants") on April 29, 2005. Defendants filed an answer on May 25, 2005 in which they denied the allegations in the Complaint and set forth various defenses including absolute, partial, and qualified immunity. On December 13, 2005, Plaintiff filed a Motion for Summary Judgment on the grounds that

“Defendants have admitted all of Plaintiffs’ [sic] allegations” in their Answer and that Defendants are not immune from suit on the grounds that they “acted in good faith.”

Summary judgment is proper only if the movant demonstrates that there is “no genuine issue as to any material fact” and that he is “entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c). In determining whether a movant is entitled to summary judgment, the court views the factual record and draws all reasonable inferences in a light most favorable to the non-moving party. *See Matsushita Elec. Indus. Co. V. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986).

Contrary to Plaintiff’s assertion, Defendants did “deny the allegations of fact contained in the paragraphs captioned Nature of the Case, Cause of Action, and Injury” and “each and every other factual allegation of the complaint not otherwise specifically admitted.” To date, there has been no discovery conducted in this case. Accordingly, because all of the material facts in this case are still in dispute, it is hereby RECOMMENDED that Plaintiff’s Motion for Summary Judgment [Docket # 10] be DENIED. Copies of the foregoing Report and Recommendation are being sent to all parties who are hereby notified of their right to object. The parties must file any objection to the Report and Recommendation within ten days after receiving it. Failure to object may constitute waiver of objections upon subsequent review.

DATED this 12th day of May, 2006.

BY THE COURT:



PAUL M. WARNER
United States Magistrate Judge